

56260

HOWARD & HOWARD
ATTORNEYS

THE ROSS ROY BUILDING, SUITE 110
100 BLOOMFIELD HILLS PARKWAY
BLOOMFIELD HILLS, MICHIGAN 48013

TELEPHONE (313) 645-1483
TELECOPIER (313) 645-1568

THE KALAMAZOO BUILDING, SUITE 400
107 WEST MICHIGAN AVENUE
KALAMAZOO, MICHIGAN 49007

TELEPHONE (616) 382-1483
TELECOPIER (616) 382-1568

THE PHOENIX BUILDING, SUITE 500
222 WASHINGTON SQUARE, NORTH
LANSING, MICHIGAN 48933

TELEPHONE (517) 485-1483
TELECOPIER (517) 485-1568

PHILLIP G. ADKISON
JOHN W. ALLEN *
KELLY A. ALLEN
GUSTAF R. ANDREASEN
E. JOHN BAILEY *
DANIEL L. BAKER
GERRY A. BARTLETT
ROBERT C. BECK
ANTOINETTE BEUCHE
RUSS E. BOLTZ *
ERIC E. BREISACH
NORMAN BRISTOL †
MARK H. CANADY
PHILIP T. CARTER
JEFFREY P. CHALMERS

DAVID C. COEY
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BRUCE R. GRUBBS
RICHARD L. HALPERT
JOHN G. HAYWARD
JOSEPH B. HEMKER *
DAVID L. HOLMES
JOHN C. HOWARD
RICHARD J. HOWARD
V. LEE INGRAM *
ROBERT B. JOHNSTON

J. MICHAEL KEMP *
DANIEL N. KING * *
JON H. KINGSEPP
JAMES H. KONING
TIMOTHY C. LIGGETT
PETER J. LIVINGSTON
JAMES E. LOZIER
JOHN G. MANSKE
D. CRAIG MARTIN
ROBERT D. MOLLHAGEN *
LAWRENCE J. MURPHY *
BRAD A. RAYLE
DAVID E. RIGGS
THOMAS M. RIPLEY
REED D. RUBINSTEIN * *

MICHAEL D. SCHLACK
DEBORAH M. SCHNEIDER
SUSAN P. TELFORD
PATRICK R. VAN TIFLIN
JACQUELINE K. VESTEVICH
STEVEN H. WESTON
MYRA L. WILLIS
TIMOTHY M. WITTEBORT

WILLIAM G. HOWARD
(1845-1906)
HARRY C. HOWARD
(1871-1946)

‡ ALSO ADMITTED IN INDIANA
† ALSO ADMITTED IN NEW YORK
* ALSO ADMITTED IN DISTRICT OF COLUMBIA
* ALSO ADMITTED IN TEXAS
* ALSO ADMITTED IN ILLINOIS
* ALSO ADMITTED IN VIRGINIA
▷ ALSO ADMITTED IN OHIO

OF COUNSEL
WILLIAM J. HOWARD

Bloomfield Hills Office
October 17, 1989

Ms. Susan Swales, 5HSM-12
Superfund Program Management Branch
U.S. Environmental Protection Agency, 5HS-11
230 South Dearborn Street
Chicago, Illinois 60604

RE: Himco, Inc. Dump in Elkhart,
Elkhart County, Indiana

Our Clients: CLD Corporaton
Josephine Cooper

Dear Ms. Swales:

We represent CLD Corporation ("CLD") and its principal, Josephine Cooper ("Cooper"). In January of 1989, our clients received a 122(e) letter from Region 5 alleging that they were potentially responsible for polluting the above-captioned site. Additionally, our clients received a 104(e) letter from Region 5 requesting information.

In July of 1989, Victor A. Franklin, Assistant Regional Counsel, informed us by letter that the EPA had ended negotiations with PRP's for the RI/FS phase of work at the site and intended to conduct the RI/FS with Superfund monies. Further, Mr. Franklin advised that there was no distinction between those PRP's who received a 122(e) Special Notice Letter and those who received a 104(e) Request for Information letter. Mr. Franklin advised our clients that liability as a PRP was the same regardless of the form of the letter.

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 2

We have, in conjunction with our clients, reviewed our records pursuant to the EPA's requests. These records establish:

- I) CLD and Josephine Cooper are one entity for purposes of potential responsibility under the Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601 et. seq. ("CERCLA"); and
- II) CLD is not liable as an owner/operator, generator or transporter under CERCLA; or
- III) If CLD is classified as an owner under CERCLA §9601(20)(A) then it is entitled to the third party statutory defense pursuant to CERCLA §9607(b)(3), or the "innocent landowner defense"; or
- IV) Any liability on the part of CLD is de minimis.

I. CLD AND COOPER ARE ONE ENTITY.

Josephine Cooper is a woman of advanced age, who lives at 54157 Starner Avenue in Elkhart, Indiana. Notably, CLD Corporation has the identical mailing address.

Over the years, Mrs. Cooper has owned several parcels of real estate in Elkhart County. In 1973, CLD Corporation was formed, the sole shareholders being Mrs. Josephine Cooper, her husband, George Cooper, and her son, Gregory Cooper. The Corporation was established solely for estate planning purposes.

- Property Transaction:

The parcel of land adjacent to the Himco, Inc. Dump which CLD owns was transferred from Mrs. Cooper to CLD in 1973. Attached as Exhibit 1(a) is the deed granting the property to CLD.

- Transaction made pursuant to an estate plan:

Attached hereto as Exhibit "1" is an Affidavit of Mr. Robert R. Cleppe, Senior Vice-President and Trust Officer of First Interstate Bank of Southern Indiana - N.A. This Affidavit clearly sets forth CLD's purpose - an estate planning tool.

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 3

- Cleppe Affidavit:

Mr. Cleppe had been personally involved with Mrs. Cooper's accounts for many years prior to the incorporation of CLD in 1973. Moreover, Mr. Cleppe currently holds the position of Trust Officer with the bank and is familiar with CLD, its purpose and its activity. Mr. Cleppe's statement, that CLD is a closely held corporation established for estate planning purposes, is evidence that Mrs. Cooper and CLD must be considered one entity.

- Request for single PRP status:

No distinction can be made between Mrs. Cooper and CLD, vis-a-vis their interest in the property. There is absolutely no basis upon which to impose liability on Mrs. Cooper separate from, or in addition to CLD. Consequently, we request that the PRP list be amended to reflect one PRP, CLD Corporation, for purposes of all further proceedings. For the balance of this correspondence, our client will be referred to only as CLD.

II. CLD IS NOT LIABLE UNDER CERCLA.

CERCLA establishes a liability scheme to insure that those responsible for the release or threatened release of hazardous substances will be made to pay for the response costs and for damage to natural resources. CERCLA Section 107, 42 U.S.C. §9607.

The liability scheme established by CERCLA Section 107(a) identifies four classes of potentially liable defendants: 1) current owners and operators of hazardous waste facilities; 2) past owners and operators of hazardous waste facilities; 3) generators who arrange for the disposal or treatment of hazardous waste; and 4) transporters of hazardous wastes. Section 107(a)(1)-(4), 42 U.S.C. §9607(a)(1)-(4).

A. CLD IS NOT AN OWNER/OPERATOR OF THE SITE:

1) Site Description/Owner Status.

The EPA has defined "The Site" as "Himco, Inc. Dump in Elkhart, Elkhart County, Indiana".

The legal description of "The Site" and a plat map is attached as Exhibit 2(a). Neither Josephine Cooper nor CLD owned or operated "The Site".

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 4

Record owners of "The Site" are:

Noble Bowers and Selma Bowers
Bessie Glick, survivor of Ellsorth Glick
Charles H. Himes and Grace Himes
Mabel G. Wieler and Harry B. Wieler
Aurthur L. Thornton and Adelyn C. Thornton
Peter Falcone, Ruth Falcone & Albert Falcone

Current Owner: Alonzo Craft, Jr.
TRACT C

2) CLD and Miles Laboratories own land contiguous to the site.

There are essentially three tracts of land, called A., B. and C. The owners of record of Tract C are described above, and, as noted, the current owner is Alonzo Craft, Jr. Tracts A. and B. are adjacent to the site. CLD is the current owner of Tract B., Miles Laboratories is the current owner of Tract A.

TRACT B: CLD owns allegedly contaminated real estate contiguous to the site. It is currently owned by CLD, and prior to 1973 was owned by CLD's principle, Josephine Cooper and Ira E. and Thelma Rogers. This real estate is described and mapped in Exhibit 2(b). The Warranty Deed granting Josephine Cooper the property on February 6, 1968 is attached as Exhibit 3.

TRACT A: Tract A, owned by Miles Laboratories is also contiguous to "The Site". Miles' real estate is described and mapped in Exhibit 2(c). Record owners of that real estate are:

Grace Earhart
David J. Miller and Alan J. Ludwig & Karen A. Ludwig
Mabel G. Wieler and Harry B. Wieler
Alan J. and Karen Ludwig and David J. Miller
Henry and Mollie Cohen

Current Owner: Miles Laboratories, Inc.

We have no further information regarding this Tract.

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 5

3) Site Operation/Operator Status.

The Himco, Inc. Dump was opened and operated in 1960 by Mr. Charles Himes, Sr. In 1975, Himco Waste-Away Services, Inc., the primary transporter of solid waste to the site, entered into a Consent Agreement with the Indiana Stream Pollution Control Board that resulted in the closing of the site in September of 1976. Neither Josephine Cooper nor CLD were ever involved in operation of the site.

4) Conclusion: CLD is not an Owner/Operator.

The terms owner and operator are defined together in CERCLA §9607(A)(20), 42 U.S.C. 9607(A)(20) as follows:

(20)(A) The term "owner or operator" means (i) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, (ii) in the case of an onshore facility or an offshore facility, any person owning or operating such facility, and (iii) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand. Such term does not include a person, who, without participating in the management of a vessel or facility, holds indicia of ownership primarily to protect his security interest in the vessel or facility.

a) Owner.

The above site information reveals that neither Josephine Cooper nor CLD have been record owners of the Himco, Inc. Dump Site. CLD is merely an adjacent landowner.

CLD has owned a parcel of land adjacent to the Himco, Inc. Dump since 1968. The dump was operational since 1960. CLD cannot be held liable as an owner of a "facility" because "facility" refers to the place where hazardous substances are located and they did not own or

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 6

operate the Himco, Inc. Dump Site. It is the Himco, Inc. Dump Site, not the CLD land, that is a "facility" for purposes of "owner/operator" liability under CERCLA, 42 U.S.C. §9607(a)(1). See, United States v Northeastern Pharmaceutical, 810 F2d. 726, 742-743 (8th Cir. 1986). Thus, CLD is not an owner.

b) Operator.

Neither Cooper, the individual, nor CLD, the corporation, were ever involved in the landfill or dumping business, they were not in control of the dump, nor did they reap any profit from the dump site. Moreover, they did not in any way participate in the management of the dump site. Therefore, CLD cannot be classified as an "operator".

B. CLD IS NOT A GENERATOR:

CLD never generated waste disposed of at the site, nor did it arrange, by contract or otherwise for the disposal or treatment of hazardous waste at the Himco, Inc. Dump. CLD never owned or possessed hazardous waste in any form. Thus, CLD is not a generator under CERCLA, 42 U.S.C. §9607(a)(3).

C. CLD IS NOT A TRANSPORTER:

CLD never accepted any hazardous substances for transport to the Himco, Inc. Dump. CLD is not in the business of transporting waste. Therefore, CLD is not a transporter under CERCLA, 42 U.S.C. §9607(a)(4).

There are no documents in existence which evidence generator or transporter status for CLD.

D. CONCLUSION:

Since CLD cannot be placed in the class of any of the potentially responsible parties under CERCLA Section 107 42 U.S.C. §9607, CLD cannot be liable under CERCLA and should not be classified as a PRP.

III. CLD IS AN INNOCENT LANDOWNER.

A) Factual Description:

The Himco, Inc. Dump was opened in approximately 1960 by Mr. Charles H. Himes, Sr., a sole-proprietor who had been conducting business

Ms. Susan Swales, 5HSM-12

October 17, 1989

Page 7

under the names Chas. Himes & Sons and Himes Cartage for a number of years. The primary client of Chas. Himes & Sons was Miles Laboratories, Inc., a local pharmaceutical company. In approximately 1968, Mr. Himes, Sr. purchased Days Waste-Away and a small number of additional local trash routes. In 1968, HIMCO WASTE-AWAY SERVICES, INC. was incorporated. This Corporation took over the trash hauling and pick up business of Himes Cartage and Chas. Himes & Sons. Mr. Himes, Sr., through Chas. Himes & Sons continued to run the Landfill. Himes Cartage continued it's regular freight business until approximately 1972 when it ceased all operations.

In 1968, Josephine Cooper and her husband, George Cooper, became extremely concerned about the Himco Dump. See letter from George Cooper to public leaders, attached as Exhibit "4". Consequently, the Coopers purchased the land adjacent to the dump to stop expansion of the dump. This purchase was made long before the passage of CERCLA or SARA when the standards of inquiry relevant to a purchase of property were unsophisticated or perhaps nonexistent. There were no such procedures such as environmental audits or hydrogeological studies to determine if the property was contaminated.

CLD experienced some problems with odors, blowing papers and leachate in low areas. As a result, CLD contacted the site owners, at the time, the Himes, to work with them to remedy the problems. The site owner agreed to backfill the low areas with clean fill, to abate problems. No money was exchanged, no litigation ensued. CLD was attempting to keep the landfill business where it belonged, on the site. It took as many precautions to prevent the spread of any contamination as possible.

The EPA now alleges that CLD's property is contaminated, thereby classifying CLD's land as a "facility" and CLD as an "owner" liable for clean-up costs. Although there is no current evidence that CLD's property is contaminated; if it is, CLD is entitled to protection from CERCLA's provisions exposing it to clean-up costs based upon the "innocent land owner's defense" CERCLA, 42 U.S.C. §9607(b)(3).

IV) INNOCENT LANDOWNER'S DEFENSE UNDER CERCLA AND SARA:

A. The Statute.

CLD can prove, by a preponderance of the evidence, that it is entitled to the "innocent landowner's defense" which is a complete bar to CERCLA liability. CERCLA, 42 U.S.C. §9607(b)(3) provides that:

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 8

There shall be no liability under subsection (a) of this section for a person otherwise liable who can establish by a preponderance of the evidence that the release or threat of release of a hazardous substance and the damages resulting therefrom were caused solely by:

(3) an act or omission of a third party other than an employee or agent of the defendant, or than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the defendant...., if the defendant establishes by a preponderance of the evidence that (1) he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of such hazardous substance, in light of all relevant facts and circumstances and (b) he took precautions against foreseeable acts or omissions of any such third party and the consequences that could foreseeable result from such acts or omissions....

In 1986, SARA amended the definition of "contractual relationship" to extend the innocent landowner defense to a class of owners who would otherwise be liable for contamination to their land caused by their predecessors in title. SARA amended the "contractual relationship" definition to exclude from liability owners who: (1) acquired title after the disposal or placement of hazardous materials had occurred, and (2) could establish by a preponderance of the evidence that:

- (i) At the time that the party acquired a facility, it did not know and had no reason to know that any hazardous substance which was the subject of the release or threatened release was disposed of on, in, or at the facility; SARA §101(35)(A), 42 U.S.C. §9601(35)(A).

The criteria for determining whether a landowner "knew or had reason to know" that any hazardous substance was disposed of at the

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 9

facility is clarified by SARA §101(35)(B), 42 U.S.C. §9601(35)(B). This statute provides that a landowner:

must have undertaken, at the time of acquisition, all appropriate inquiry into the previous ownership and uses of the property consistent with good commercial or customary practice in an effort to minimize liability.

CLD meets the above requirements, and, by definition, is not in a contractual relationship with PRP. Further, CLD exercised due care and took appropriate precautions against the foreseeable acts of third parties, absolving it from CERCLA liability.

B. The Case Law.

The statutory innocent landowner defense has been interpreted by the Courts since the passage of SARA. In United States v Pacific Hide & Fur Depot, Inc., et al., ____ F.Supp. ____, 1989 U.S. Dist. Lexis 8074, (D.Id. 1989), the four elements of the innocent landowner defense were discussed. CLD addresses each element seriatim:

- A) 1. The release or threat of release of a hazardous substance and the resulting damages were caused solely by an act or omission of a third party;**

CLD is neither a transporter nor a generator, nor did CLD operate a landfill. The Himco prodigy, as operator, and Miles Laboratories, as well as other generators are solely responsible for any alleged damage.

- B) 2. The Third Party's act or omission did not occur in connection with a contractual relationship (either direct or indirect) with the defendants (ie: CLD).**

CLD has never had a contractual relationship with any of the third parties, such as Himco or Miles. More specifically, with reference to the "contractual relationship" as defined by SARA, CLD acquired title after the disposal of hazardous waste occurred and undertook all appropriate precautions against foreseeable acts of the third parties by

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 10

attempting to halt the spread of the landfill and remediate any damage. CLD's actions in the late 1960's and early 1970's were consistent with "good commercial or customary practice in an effort to minimize liability". SARA §101(35)(B), 42 U.S.C. §9601(35)(B).

At least one Court has allowed an owner to maintain the defense accepting evidence of commercial real estate practice in 1969, even where such evidence showed practices that seem to depart markedly from the modern-day standard. See, U.S. v Serafini, Slip. Op. No. 88-1591 (M.D. Pa. 1988).

3. The defendants exercised due care with respect to the hazardous substance; and
4. The defendants took precautions against the third party's foreseeable consequences resulting therefrom.

The above points have been addressed in the factual description (IIIA) and can be proven through testimony of both CLD and the third parties.

C. Conclusion - CLD is and innocent landowner.

Based upon the facts and the interpretation of the statutes and caselaw, CLD meets all of the requirements to qualify as an innocent landowner absolving it from CERCLA liability.

IV. THE EPA MUST GRANT CLD A DE MINIMUS SETTLEMENT.

It has come to our attention that the EPA has recently issued a new policy guidance on how the agency will identify current landowners with whom it will enter into settlements under CERCLA §122(a), 42 U.S.C. §9622(a).¹ Under CERCLA Section 122, the President has discretionary authority to enter into "de minimus settlements". According to the EPA, the purpose of the policy is to hasten settlement with those landowners who, in the EPA's judgment, ultimately may be able to prove a third-

¹ Memorandum from Edward E. Reich and Jonathon Z. Cannon to Regional Administrators, Regional Counsels and Waste Management Division Director, Regions 1-X on Guidance on Landowner Liability under Section 107(a)(1) of CERCLA, De Minimus Settlements under Section 122(g)(1)(B) of CERCLA, and settlements with Prospective Purchasers of Contaminated Property, June 8, 1989 ("EPA Guidance").

Ms. Susan Swales, 5HSM-12
October 17, 1989
Page 11

party defense, but who prefer to avoid the cost of doing so through litigation.

The EPA has adopted this settlement approach because the prerequisites to settlement under Section 122(g)(1)(B) are "substantially the same" as the criteria that a landowner would have to meet to successfully assert the innocent landowner defense under CERCLA §107(b). See EPA Guidance, Page 9. Since CLD makes a very convincing case for the innocent landowner defense, the EPA, under its new guidance and policy should grant CLD a De Minimus settlement under CERCLA §122.

REQUEST FOR RELIEF

Wherefore, CLD requests that:

- I) CLD Corporation and Josephine Cooper are one separate entity for purposes of potential responsibility under 42 USC 9601 et. seq. "CERCLA"; and
- II) CLD not be held liable as an owner/operator, generator or transporter under CERCLA; or
- III) If CLD is classified as an owner under CERCLA §9601(20)(A) then it is entitled to the third party statutory defense pursuant to CERCLA §9607(b)(3), or the "innocent landowner defense"; or
- IV) Any liability on the part of CLD whatsoever be de minimus.

Very truly yours,

HOWARD & HOWARD


Antoinette Beuche

AB/jh
Attachments
c:ao.corr/himco.01

cc: Mr. & Mrs. George Cooper
Mr. Gregory M. Cooper, President

hundred three and fifty-eight hundredths (503.58) feet to the center line of said County Road; thence north seventy-six (76) degrees nine (9) minutes west along the center line of said County Road, five hundred forty-seven and ninety-two hundredths (547.92) feet to the place of beginning.

Subject to public highways.

TRACT III:

The Northwest quarter (NW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East,

ALSO:

Part of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

Beginning at the northwest corner of the southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of said Section Thirty-six (36); thence running south on the west line of said quarter quarter section twenty (20) rods to a stake; thence east eight (8) rods; thence north parallel with the west line of said quarter quarter section to the north line thereof; thence west eight (8) rods to the place of beginning. Containing one (1) acre of land, more or less.

TRACT IV:

Forty (40) acres of land off the North end of the East one-half (E-1/2) of the Northwest quarter (NW-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, of Range Four (4) East, being all that portion of said East one-half (E-1/2) located North of Public Road, and highway.

EXCEPTING the following described Tract of land:

Part of the Northwest Quarter (NW-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Assuming the east line of said quarter (1/4) section to have a bearing of due north and south; beginning at the intersection of said east line with the center line of the Fort Wayne Road, said point of intersection being marked by a railroad spike driven in the asphalt pavement; thence north seventy-two (72) degrees eighteen (18) minutes west along said center line one hundred fifty-seven and forty-five hundredths (157.45) feet to a spike nail driven in the asphalt pavement; thence due north parallel with the east line of said quarter section one hundred fifty (150) feet to an iron stake; thence due east one hundred fifty (150) feet to an iron stake on the east line of said quarter (1/4) section; thence due south along the east line of said quarter section one hundred ninety-seven and eighty-seven hundredths (197.87) feet to the place of beginning, containing approximately six tenths (0.6) of an acre.

Subject to public highways.

TRACT V:

Ten acres off the North end of the West half (W-1/2) of the West half (W-1/2) of the Southeast Quarter (SE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

A part of the West (W-1/2) of the Northwest Quarter (NW-1/4) of the Southeast Quarter (SE-1/4) of said section thirty-six (36), described as follows:

Beginning at an iron stake marking the center of said section thirty-six (36); thence south one (1) degrees seventeen (17) minutes east along the west line of the southeast quarter (SE-1/4) of said section thirty-six (36) a distance of six hundred fifty-eight and fifty-five hundredths (658.55) feet to an iron stake; thence north eighty-eight (88) degrees forty-eight (48) minutes east a distance of six hundred sixty and ninety-seven hundredths (660.97) feet to an iron stake; thence north one (1) degree twenty-eight (28) minutes west a distance of six hundred fifty-seven and eight hundredths (657.08) feet to an iron stake; thence south eighty-eight (88) degrees fifty-seven (57) minutes west a distance of six hundred fifty-nine and eleven hundredths (659.11) feet to the place of beginning of this description. Containing 10 acres of land, more or less.

Also, a right of way sixteen (16) feet wide across the north end of the following described tract:

The East half (E-1/2) of the Southwest quarter (SW-1/4) of Section Thirty-six (36), in Township Thirty-eight (38) North, Range Four (4) East, excepting twenty (20) acres off the north end thereof.

Said easement being more particularly described in a deed from Levi B. Thornton, et al. to John McFadden, dated October 25, 1906, and recorded February 4, 1907, in Deed Record 114, page 474.

Also, a part of the East half (E-1/2) of the Southwest Quarter (SW-1/4) of the Northeast Quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, situate in Cleveland Township, Elkhart County, State of Indiana, described as follows:

Beginning at an iron stake marking the southwest corner of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said Section thirty-six (36); thence north eighty-eight (88) degrees fifty-seven (57) minutes east along the south line of the northeast quarter (NE-1/4) of said Section thirty-six (36) a distance of thirty (30) feet to an iron stake; thence north two (2) degrees ten (10) minutes west a distance of eight hundred twenty-four and three tenths (824.3) feet to a railroad spike in the center line of County Road 10; thence north seventy-seven (77) degrees thirty-seven (37) minutes west along the center line of said County Road 10 a distance of thirty (30) feet to an iron stake on the west line of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said Section thirty-six (36); thence south two (2) degrees six (6) minutes east along the west line of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said section thirty-six (36) a distance of eight hundred thirty-one and twenty-five hundredths (831.25) feet to the place of beginning of this description. Containing 0.56 of an acre of land.

Subject to legal highway.

TRACT VI:

The West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, excepting that part of said tract lying and being North of the Fort Wayne Road.

Dated this 27th Day of April 19 73

Seal
Josephine L. Cooper

Seal

Seal

Seal

Seal

Seal

Seal

Seal

Seal

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Seal

Seal

Seal

State of Indiana, Elkhart County, ss:

Before me, the undersigned, a Notary Public in and for said County and State, this 27 day of April 1973 personally appeared: Josephine L. Cooper, a woman of adult age,

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires August 31 19 75.

Sharon K. Zemanek Notary Public
Sharon K. Zemanek

State of

Before me, the undersigned, a Notary Public in and for said County and State, this day of 19 personally appeared:

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires 19

Notary Public

State of

Before me, the undersigned, a Notary Public in and for said County and State, this day of 19 personally appeared:

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires 19

Notary Public

State of

Before me, the undersigned, a Notary Public in and for said County and State, this day of 19 personally appeared:

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires 19

Notary Public

State of

Before me, the undersigned, a Notary Public in and for said County and State, this day of 19 personally appeared:

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires 19

Notary Public

State of

Before me, the undersigned, a Notary Public in and for said County and State, this day of 19 personally appeared:

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires 19

Notary Public

Prepared by ~~XXXXXXXXXX~~ F. LeRoy Wiltrout, Elkhart, Indiana,
Member of Elkhart County Indiana Bar Association

MAIL TO:

06210

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334 PAGE 164

WARRANTY DEED

This indenture witnesseth that JOSEPHINE L. COOPER, a woman of adult age,

570837

of Elkhart

County in the State of

Indiana

JUN 8 10 32 AM '73

Conveys and warrants to

CLD CORPORATION
210 East Jackson Boulevard
Elkhart, Indiana 46514

Margaret M. McLaughlin
ELKHART COUNTY RECORDER

of Elkhart

County in the State of

Indiana

for and in consideration of One Dollar (\$1.00) and other valuable consideration
the receipt whereof is hereby acknowledged, the following Real Estate in
the State of Indiana, to wit:

Elkhart

County

TRACT I:

The South one-half (1/2) of the Northwest Quarter (1/4) of Section Thirty-five (35),
Township Thirty-eight (38) North, Range Four (4) East, containing eighty (80) acres,
according to the United States Survey, excepting the following described tract:

Commencing at the Southeast corner of said South one-half (1/2) of the Northwest
quarter (1/4) of said Section Thirty-five (35); thence running North forty (40) rods;
thence west eight (8) rods; thence south forty (40) rods; thence east eight (8) rods
to the place of beginning, containing two (2) acres of land, more or less.

Subject to public highways.

TRACT II:

That part of the following described real estate lying north of the Fort Wayne Road,
containing five (5) acres, more or less, describing the West half (W-1/2) of the
following land:

Commencing in the center of Section Thirty-six (36), Township Thirty-eight (38)
North, Range Four (4) East; running thence east twenty and one-half (20-1/2) chains;
thence north twenty and thirteen hundredths (20.13) chains; thence west eighteen and
fifty hundredths (18.50) chains; thence south to the center of the highway about five
and twenty-five hundredths (5.25) chains; thence westerly with said highway about two
(2) chains to the one-half section line; thence south fifteen (15) chains to the place of
beginning, containing twenty (20) acres, more or less, being the West one-half (W-1/2)
of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said section.

EXCEPTING one (1) acre in the northwest corner formerly owned by John Holtz.

Subject to public highways.

The above-described real estate is also described as follows:

A part of the Northeast Quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-
eight (38) North, Range Four (4) East, more particularly described as follows:

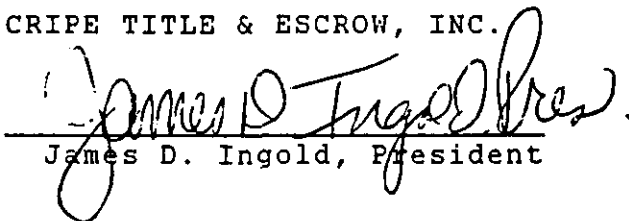
Assuming the West line of the Northeast Quarter (NE-1/4) of said Section Thirty-six
(36) to have a bearing of due north and south, and commencing at a point where said west
line is intersected by the center line of County Road Number Ten (10), commonly known
as the Fort Wayne Road, said point being approximately one thousand five (1,005) feet
north of the center of Section Thirty-six (36), and being marked by a railroad spike
driven into the asphalt pavement; thence south seventy-six (76) degrees nine (9) minutes
east, along the center line of said County Road, one hundred thirty-six and thirty-three
hundredths (136.33) feet to the place of beginning of this description; thence due north,
parallel with the west line of said quarter three hundred sixty-three and eighty hundredths
(363.80) feet to the north line of the tract formerly owned by Stanley Platz; thence north
eighty-nine (89) degrees four (4) minutes east, along said north line, five hundred twenty-
six and seventy hundredths (526.70) feet; thence south zero (0) degrees thirty-eight (38)
minutes east, along the east line of the tract formerly owned by said Stanley Platz, five

We certify that the following pages were conducted as one search and are considered one search. This search was prepared for Susan Telford at Howard & Howard in Bloomfield Hills, Michigan.

The following is a complete search according to the records of Elkhart County, Indiana, as to the property in question.

Dated this 21 day of July, 1989.

CRIFE TITLE & ESCROW, INC.


James D. Ingold, President

We certify that we have searched the Deeds of record, from 1960 to present, for the following legal description referred to as parcel A and color coded on the attached sheet in BLUE. The tax codes for said parcel are 03-01-36-251-013, 03-01-36-251-015 and 13-01-36-276-003.

A part of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, Cleveland Township, more particularly described as follows:

Commencing at the intersection of the East line of said Quarter Section with the center line of County Road Number Ten, commonly known as Fort Wayne Road; thence North seventy-seven (77) degrees thirty-seven (37) minutes west along the center line of said County Road, one thousand ninety-eight and seventeen hundredths (1098.17) feet to the place of beginning of this description; thence north two (2) degrees six (6) minutes west, three hundred ninety and ninety-eight hundredths (390.98) feet to the south line of the former C.C.C. & St. Louis Railroad; thence North sixty-nine (69) degrees thirty-nine (39) minutes west along the south line of said Railroad, five hundred twenty-three and sixty-two hundredths (523.62) feet; thence south two (2) degrees six (6) minutes east, two hundred and two hundredths (200.02) feet; thence north eighty-seven (87) degrees fifty-four (54) minutes east, two hundred forty-two and six hundredths (242.06) feet; thence south two (2) degrees six (6) minutes east, three hundred twenty-eight and forty-seven hundredths (328.47) feet to the center line of said County Road; thence south seventy-seven (77) degrees thirty-seven (37) minutes east along the center line of said County Road, two hundred fifty (250) feet to the place of beginning.

The deed of record between the above years is as follows:

Grantor: Noble Bowers and Selma Bowers
Grantee: Alonzo Craft, Jr.
Dated: June 10, 1984
Recorded: August 15, 1984
Record: Deed Record 410, page 769

Present Owner: Alonzo Craft, Jr.

We certify that we have searched the Deeds of record, from 1960 to present, for the following legal description referred to as parcel B and color coded on the attached sheet in YELLOW. The tax code for said parcel is 03-01-36-276-001.

TRACT I:

A part of the South one-half ($S\ 1/2$) of the Northeast Quarter ($NE\ 1/4$) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:
Beginning at the northeast corner of the south one-half of the Northeast Quarter ($NE\ 1/4$) of said Section Thirty-six (36); thence south along the east line of said Section, fourteen and four-tenths (14.4) chains to the Fort Wayne (formerly Niles) Road; thence westwardly along the north line of said Road, nine and nine-tenths (9.9) chains; thence north parallel with the east line of said Section, twelve and fifty-two hundredths (12.52) chains to the north line of the south one-half ($S\ 1/2$) of the Northeast Quarter ($NE\ 1/4$) of said Section; thence eastwardly along the north line of the south one-half ($S\ 1/2$) of the Northeast Quarter ($NE\ 1/4$) of said Section, nine and sixty-six hundredths (9.66) chains to the place of beginning, containing thirteen (13) acres; all shown in Elkhart County Surveyor's Record Number Four, page Thirty-four (34).

Excepting the following: Beginning at an iron stake marking the northeast corner of the Southeast Quarter ($SE\ 1/4$) of the Northeast Quarter ($NE\ 1/4$) of said Section; thence south one (1) degree nineteen (19) minutes west along the east line of said Quarter Quarter Section, nine hundred eighty and sixty-three hundredths (980.63) feet to an iron stake located on the center line of the Fort Wayne Road (County Road No. 10); thence north seventy-six (76) feet degrees fifteen (15) minutes west, along the center line of said road, one hundred two and four tenths (102.4) feet; thence north one (1) degree nineteen (19) minutes east, parallel with the east line of said Quarter Quarter Section, nine hundred fifty-five and five tenths (955.5) feet to a point on the north line of said Quarter Quarter Section; thence north eighty-nine (89) degrees thirty-three (33) minutes east, along the north line of said Quarter Quarter Section, one hundred and five hundredths (100.05) feet to the place of beginning. Containing approximately 2.22 acres.

TRACT II:

Commencing at a stone at the southwest corner of the Northwest Quarter ($NW\ 1/4$) of Section Thirty-one (31), Township Thirty-eight (38) North, Range Five (5) East;

thence north along the east line of said Section Thirty-six (36), three hundred ninety-seven and thirty-five hundredths (397.35) feet to a railroad spike in the center of the Fort-Wayne Road; thence north seventy-seven (77) degrees thirty-seven (37) minutes west along the center of said road six hundred fifty-two and seventy-five hundredths (652.75) feet to a railroad spike for the beginning point of this description, said beginning point being nine and sixty-six hundredths (9.66) chains west of the east line of said Section Thirty-six (36); thence north seventy-seven (77) degrees thirty-seven (37) minutes west along the center of said road, four hundred forty-five and forty-two hundredths (445.42) feet; thence north two (2) degrees six (6) minutes west to the former south line of the C.C.C. & St. Louis Railway right-of-way; thence northwestwardly along said right-of-way line to the north line of the South one-half (S 1/2) of said Northeast Quarter (NE 1/4) of said Section Thirty-six (36); thence eastwardly along the north line of said South one-half (S 1/2) of said Quarter Section to a point due north of the beginning point of this description; thence due south to the place of beginning, containing approximately ten and four tenths (10.4) acres of land.

EXCEPTING FROM THE ABOVE TRACTS:

Commencing at a point on the east line of the south one-half (S 1/2) of the Northeast Quarter (NE 1/4) of said Section Thirty-six (36), three hundred ninety-seven and thirty-five hundredths (397.35) feet north of the southwest corner of the Northwest Quarter (NW 1/4) of Section Thirty-one (31), Township Thirty-eight (38) North, Range Five (5) East; thence north seventy-seven (77) degrees thirty-seven (37) minutes west along the centerline of the Fort Wayne Road, five hundred fifty-two and seventy-five hundredths (552.75) feet for the beginning point of this description; thence continuing north seventy-seven (77) degrees thirty-seven (37) minutes west along the centerline of said Road, four hundred (400) feet; thence north two (2) degrees six (6) minutes west four hundred thirty (430) feet; thence south seventy-seven (77) degrees thirty-seven (37) minutes east four hundred (400) feet; thence south two (2) degrees six (6) minutes west four hundred thirty (430) feet to the place of beginning.

The deeds of record between the above years are as follows:

Grantor: Bessie Glick, survivor of Ellsworth Glick
Grantee: Charles H. Himes and Grace A. Himes
Dated: December 20, 1966
Recorded: April 28, 1967
Record: Deed Record 277, page 162

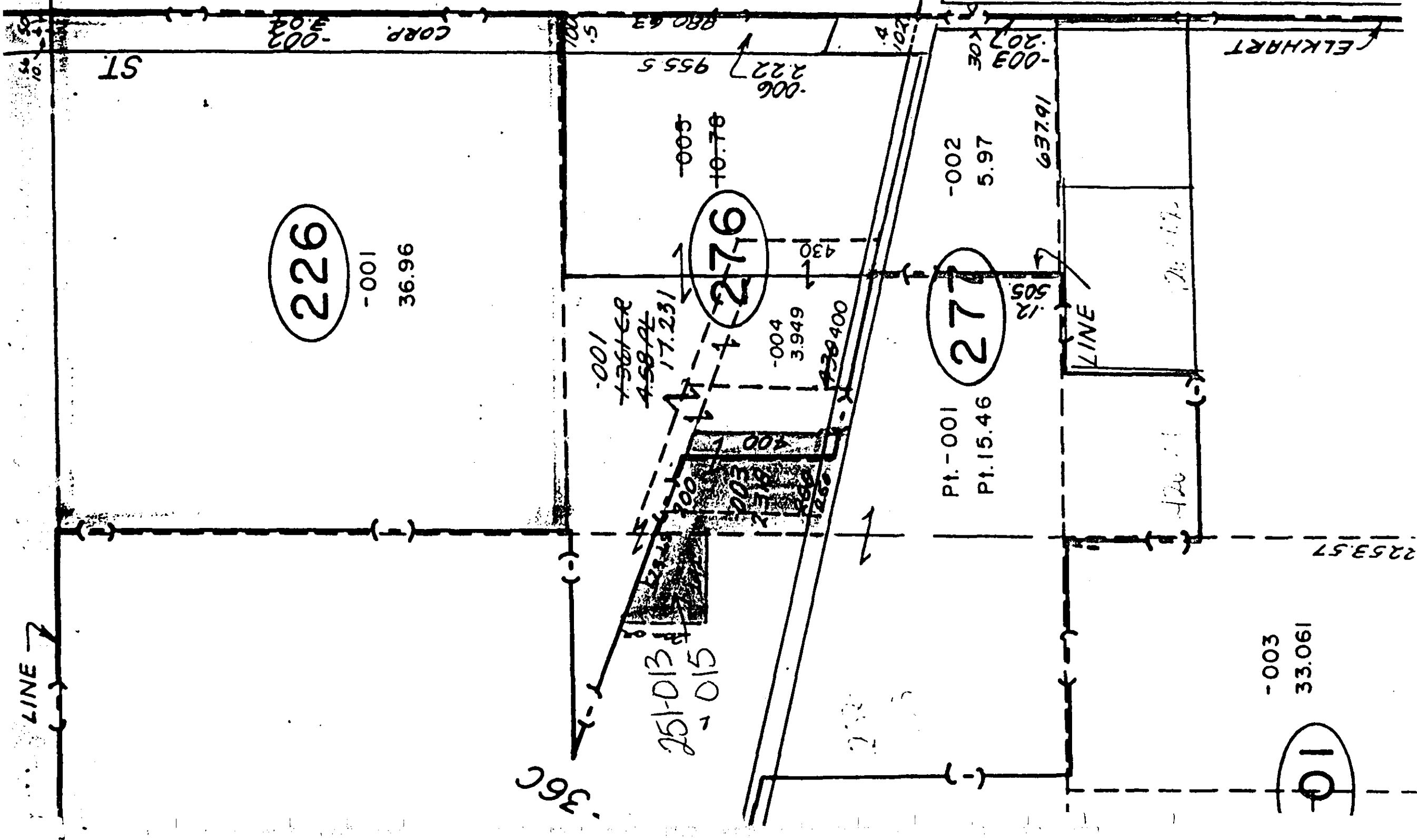
Grantor: Mabel G. Weiler and Harry B. Weiler
Grantee: Charles H. Himes and Grace A. Himes
Dated: March 12, 1973
Recorded: March 23, 1973
Record: Deed Record 331, page 497

Grantor: Arthur L. Thornton and Adelyn C. Thornton
Grantee: Charles H. Himes and Grace A. Himes
Dated: January 26, 1973
Recorded: March 23, 1973
Record: Deed Record 331, page 498

Grantor: Charles H. Himes and Grace A. Himes
Grantee: Peter Falcone and Ruth Falcone and Albert Falcone
Dated: December 21, 1983
Recorded: August 5, 1985
Record: Deed Record 417, page 319

Grantor: Peter Falcone and Ruth Falcone and Albert Falcone
Grantee: Alonzo Craft, Jr.
Dated: September 16, 1985
Recorded: September 18, 1985
Record: Deed Record 418, page 271

Present Owner: Alonzo Craft, Jr.



We certify that we have searched the Deeds of record, from 1960 to present, for the following legal description referred to as parcel C and color coded in GREEN. The tax codes for said parcel are 03-01-36-126-001, 03-01-36-201-001, 03-01-36-251-001, 03-01-36-251-002, 03-01-36-252-001 and 03-01-36-401-001.

TRACT I:

The South one-half (1/2) of the Northwest Quarter (1/4) of Section Thirty-five (35), Township Thirty-eight (38) North, Range Four (4) East, containing eighty (80) acres, according to the United States Survey, excepting the following described tract:

Commencing at the Southeast corner of said South one-half (1/2) of the Northwest quarter (1/4) of said Section Thirty-five (35); thence running North forty (40) rods; thence west eight (8) rods; thence south forty (40) rods; thence east eight (8) rods to the place of beginning, containing two (2) acres of land, more or less.

TRACT II:

That part of the following described real estate lying north of the Fort Wayne Road, containing five (5) acres, more or less, describing the West half (W-1/2) of the following land:

Commencing in the center of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East; running thence east twenty and one-half (20-1/2) chains, thence north twenty and thirteen hundredths (20.13) chains; thence west eighteen and fifty hundredths (18.50) chains; thence south to the center of the highway about five and twenty-five hundredths (5.25) chains; thence westerly with said highway about two (2) chains to the one-half section line; thence south fifteen (15) chains to the place of beginning, containing twenty (20) acres, more or less, being the West one-half (W-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said section.

EXCEPTING one (1) acre in the northwest corner formerly owned by John Holtz.

The above described real estate is also described as follows:

A part of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

Assuming the West line of the Northeast Quarter (NE 1/4) of said Section Thirty-six (36) to have a bearing of due north and south, and commencing at a point where said west line is intersected by the center line of County Road Number Ten (10), commonly known as the Fort Wayne Road, said point being approximately one thousand five (1,005) feet north of the center of Section Thirty-six (36), and being marked by a railroad spike driven into the asphalt pavement; thence south seventy-six (76) degrees nine (9) minutes east, along the centerline of said County Road one hundred thirty-six and thirty--three hundredths (136.33) feet to the place of beginning of this description; thence due north, parallel with the west line of said quarter three hundred sixty-three and eighty hundredths (363.80) feet to the north line of the tract formerly owned by Stanley Platz; thence north eighty-nine (89) degrees four (4) minutes east, along said north line, five hundred twenty-six and seventy-hundredths (526.70) feet ; thence south zero (0) degrees thirty-eight (38) minutes east, along the east line of the tract formerly owned by said Stanley Platz, five hundred three and fifty-eight hundredths (503.58) feet to the center line of said County Road,; thence north seventy-six (76) degrees nine (9)) minutes west along the center line of said County Road, five hundred forty-seven and ninety-two hundredths (547.92) feet to the place of beginning.

TRACT III:

The Northwest quarter (NW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East.

ALSO:

Part of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

Beginning at the northwest corner of the southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of said Section Thirty-six (36); thence running south on the west line of said quarter quarter section twenty (20) rods to a stake; thence east eight (8) rods; thence north parallel with the west line of said quarter quarter section to the north line thereof; thence west eight (8) rods to the place of beginning. Containing one (1) acre of land, more or less.

TRACT IV:

Forty (40) acres of land off the North end of the East

one-half (E 1/2) of the Northwest quarter (NW 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, being all that portion of said East one-half (E 1/2) located North of Public Road, and highway.

EXCEPTING the following described Tract of land:

Part of the Northwest Quarter (NW 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Asssuming the east line of said quarter (1/4) section to have a bearing at the intersection of said east line with the center line of the Fort Wayne Raod, said point of intersection being marked by a railroad spike driven in the asphalt pavement; thence north seventy-two (72) degrees eighteen (18) minutes west along said center line one hundred fifty-seven and forty-five hundredths (157.45) feet to a spike nail driven in the asphalt pavement; thence due north parallel with the east line of said quarter section one hundred fifty (150) feet to an iron stake; thence due east one hundred fifty (150) feet to an iron stake on the east line of said quarter (1/4) section; thence due south along the east line of said quarter section one hundred ninety-seven and eighty-seven hundredths (197.87) feet to the place of beginning, containing approximately six tenths (0.6) of and acre.

TRACT V:

Ten acres off the North end of the West half (W 1/2) of West half (W 1/2) of the Southeast Quarter (SE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

A part of the West (W-1/2) of the Northwest Quarter (NW-1/4) of the Southeast Quarter (SE-1/4) of said section thirty-six (36), described as follows:

Beginning at an iron stake marking the center of said section thirty-six (36); thence south one (1) degrees seventeen (17) minutes east along the west line of the southeast quarter (SE-1/4) of said section thirty-six (36) a distance of six hundred fifty-eight and fifty-five hundredths (658.55) feet to an iron stake; thence north eighty-eight (88) degrees forty-eight (48) minutes east a distance of six hundred sixty and ninety-seven hundredths (660.97) feet to an iron stake; thence north one (1) degree twenty-eight (28) minutes west a distance of six hundred fifty-seven and eight hundredths (657.80) feet to

an iron stake; thence south eighty-eight (88) degrees fifty-seven (57) minutes west a distance of six hundred fifty-nine and eleven hundredths (659.11) feet to the place of beginning of this description. Containing 10 acres of land, more or less.

ALSO, a right of way sixteen (16) feet wide across the north end of the following described tract:

The East half (E-1/2) of the Southwest quarter (SW-1/4) of Section Thirty-six (36), in Township Thirty-eight (38) North, Range Four (4) East, excepting twenty (20) acres off the north end thereof.

Said easement being more particularly described in a deed from Levi B. Thornton, et al, to John McFadden, dated October 25, 1906, and recorded February 4, 1907, in Deed Record 114, page 474.

Also, a part of the East half (E-1/2) of the Southwest Quarter (SW-1/4) of the Northeast Quarter (NE-1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, situate in Cleveland Township, Elkhart County, State of Indiana, described as follows:

Beginning at an iron stake marking the southwest corner of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said Section Thirty-six (36); thence north eighty-eight (88) degrees fifty-seven (57) minutes east along the south line of the Northeast quarter (NE-1/4) of said Section thirty-six (36) a distance of thirty (30) feet to an iron stake; thence north two (2) degrees ten (10) minutes west a distance of eight hundred twenty-four and three tenths (824.3) feet to a railroad spike in the center line of County Road 10; thence north seventy-seven (77) degrees thirty-seven (37) minutes west along the center line of said County Road 10 a distance of thirty (30) feet to an iron stake on the west line of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said Section thirty-six (36); thence south two (2) degrees six (6) minutes east along the west line of the east half (E-1/2) of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said section thirty-six (36) a distance of eight hundred thirty-one and twenty-five hundredths (831.25) feet to the place of beginning of this description. Containing 0.56 of an acre of land.

TRACT VI:

The West half (W-1/2) of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of Section Thirty-six

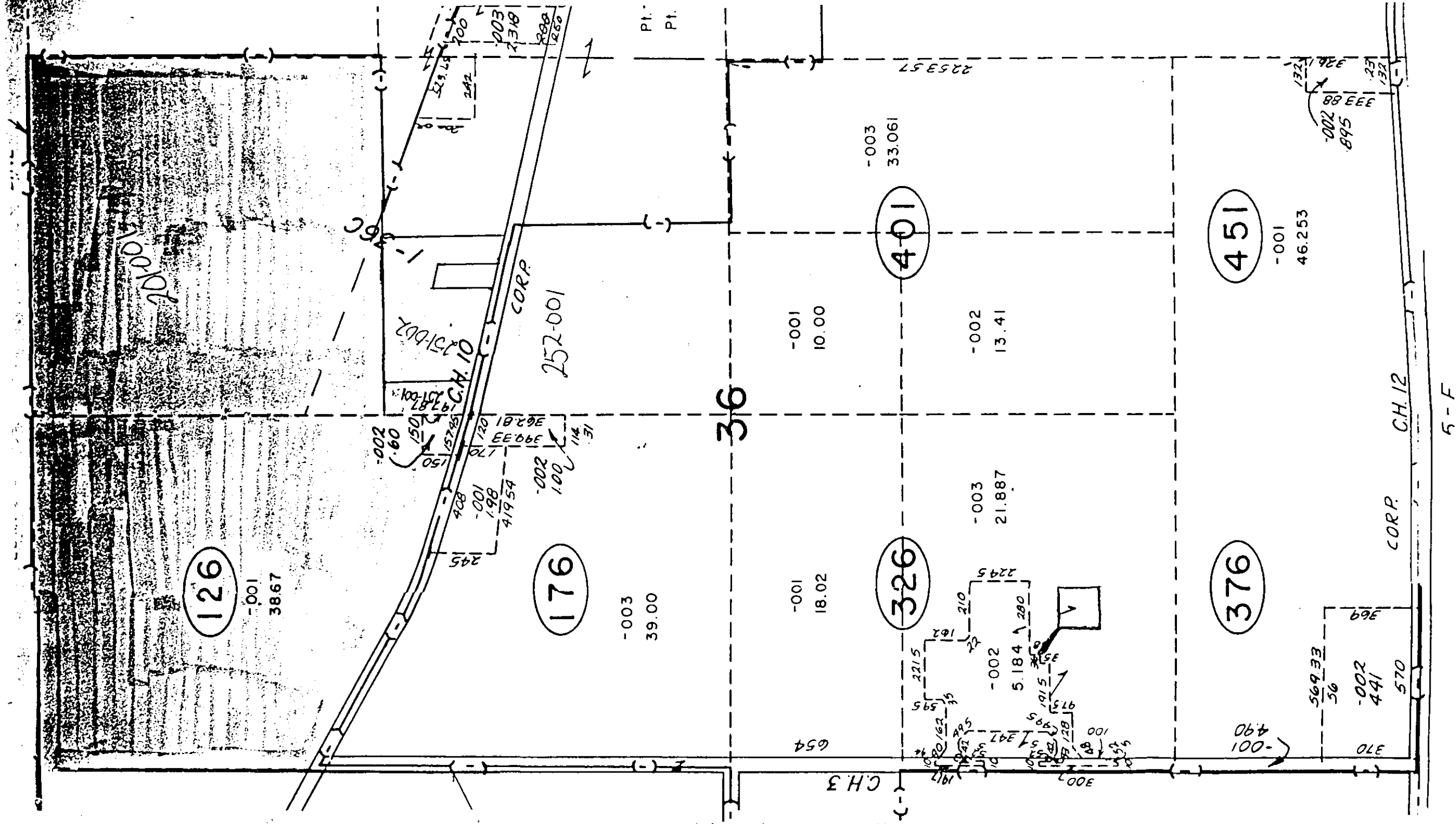
(36), Township Thirty-eight (38) North, Range Four (4) East, excepting that part of said tract lying and being North of the Fort Wayne Road.

The deeds of record between the above years are as follows:

Grantor: Ira E. and Thelma Rogers
Grantee: Josephine L. Cooper
Dated: February 6, 1968
Recorded: February 7, 1968
Record: Deed Record 283, page 641

Grantor: Josephine L. Cooper
Grantee: CLD Corporation
Dated: April 27, 1973
Recorded: June 8, 1973
Record: Deed Record 334, page 164

Present Owner: CLD Corporation



7-5

We certify that we have searched the Deeds of record, from 1960 to present, for the following legal description referred to as parcel D and color coded on the attached sheet in PINK. The tax codes for said parcel are 03-01-36-226-001, 03-01-36-227-001, 03-01-36-277-002, 03-01-36-277-003, 03-01-36-426-001 03-01-36-426-002 and 03-10-36-252-003.

A part of the Southeast Quarter (SE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, in Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said quarter section; thence southwardly along the east line of said quarter section three hundred fifty-four and fifty-eight hundredths (354.58) feet; thence westwardly at right angles with said east line of said quarter section, four hundred forty-three (443) feet, to the beginning point of this description; thence continuing westwardly at right angles with said east line of said quarter section, four hundred forty-four and eighteen hundredths (444.18) feet; thence northwardly parallel with the east line of said quarter section, three hundred sixty-two and eighty-four hundredths (362.84) feet to the north line of said quarter section; thence eastwardly along the north line of said quarter section, four hundred forty-four and two tenths (444.2) feet; thence southwardly parallel with the east line of said quarter section, three hundred fifty-eight and seventy-one hundredths (358.71) feet to the place of beginning, containing approximately three and sixty-seven hundredths (3.67) of an acre of land.

ALSO:

A part of the Southeast Quarter (SE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, in Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Beginning at the northeast corner of said quarter section; thence southwardly along the east line of said quarter section, three hundred fifty-four and fifty-eight hundredths (354.58) feet; thence westwardly at right angles with said east line of said quarter section, four hundred forty-three (443) feet; thence northwardly parallel with the east line of said quarter section, three hundred fifty-eight and seventy-one hundredths (358.71) feet to the north line of said quarter section; thence eastwardly along the north line of said quarter section four hundred forty-three and two hundredths (443.02) feet to the place of beginning, containing approximately three and sixty-two hundredths (3.62) acres of land.

ALSO:

A part of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows, to-wit:

Thirty (30) feet in width off the east side of the northeast quarter (1/4) of said section, extending from the south line of said northeast quarter (1/4) of said section, northwardly approximately four hundred (400) feet to the present highway known as the Fort Wayne Road.

ALSO:

The Northeast Quarter (NE 1/4) of the Northeast Quarter (NE 1/4) of Section Thirty-six (36) North, Range Four (4) East, Containing Forty (40) acres, more or less.

ALSO:

A part of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows:

Commencing at the southeast corner of the northeast quarter (NE 1/4) of said section, said point being marked by a stone that is 0.42 feet west of said corner; thence south 88 degrees 57 minutes west along the south line of the northeast quarter (NE 1/4) of said section 637.91 feet to an iron stake at the southwest corner of Ravenscroft land (Elkhart County Deed Record 192, page 157); thence due north along the west line of said Ravenscroft land and the east line of Thornton land 505.1 feet to a railroad spike in the center of the Fort Wayne Road; thence North 77 degrees 37 minutes West along the center of said road 1375.40 feet; thence south 2 degrees 6 minutes East, parallel with the West line of the East half (E 1/2) of the Southwest quarter (SW 1/4) of the Northeast quarter (NE 1/4) of said section to the South line of the northeast quarter (NE 1/4) of said section; thence North 88 degrees 57 minutes East along the South line of the northeast quarter (NE 1/4) of said section 1312.59 feet to the place of beginning.

ALSO:

A part of the Southeast Quarter (SE 1/4) of Section thirty-six (36), Township thirty-eight (38) North, Range Four (4) East, in Cleveland Township, Elkhart County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said quarter section; thence southwardly along the east line of said quarter section, three hundred fifty-four and fifty-eight hundredths (354.58) feet; thence westwardly at right angles with said east line of said quarter section, eight hundred eighty-seven and eighteen hundredths (887.18) feet to the beginning point of this description; thence continuing westwardly at right angles with said east line of said quarter section, four hundred forty-three and fifty-four hundredths (443.54) feet to the west line of the east half (E 1/2) of said quarter section; thence northwardly along said west line of said East half (E 1/2) of said quarter section, three hundred sixty-six and ninety-seven hundredths (366.97) feet to the northwest corner of said east half (E 1/2) of said quarter section; thence eastwardly along the north line of said quarter section, four hundred forty-three and sixty-two hundredths (443.62) feet; thence southwardly parallel with the east line of said quarter section three hundred sixty-two and eighty-four hundredths (362.84) feet, to the place of beginning, containing approximately three and seventy-two hundredths (3.72) acres of land.

ALSO:

A part of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East, more particularly described as follows, to-wit:

Commencing at the Southeast corner of the Northeast Quarter (NE 1/4) of Section Thirty-six (36), Township Thirty-eight (38) North, Range Four (4) East; thence West on the South line of said Quarter Section nine (9) chains and sixty-six (66) links; thence north on a line parallel with the east line of said Quarter Section seven (7) chains and sixty-one (61) links to the North line of the Ft. Wayne and Niles Road; thence on the North line of said road to the East line of said Quarter Section; thence south on said East line of said Quarter Section Five (5) chains and seventy-three (73) links to the place of beginning, containing six and forty-four (6.44) acres of land more or less.

EXCEPTING therefrom thirty (30) feet in width off the east side of the northeast quarter (1/4) of said section, extending from the south line of said northeast quarter (1/4) of said section, northwardly approximately four hundred (400) feet to the present highway known as the Fort Wayne Road.

The deeds of record between the above years are as follows:

Grantor: Grace Earhart
Grantee: David J. Miller and Allan J. Ludwig
Dated: February 24, 1967
Recorded: March 16, 1967
Record: Deed Record 276, page 279

Grantor: Arthur L. and Adelyn C. Thornton and
Mable G. and Harry B. Weiler
Grantee: Allan J. Ludwig and David J. Miller
Dated: November 26, 1969
Recorded: December 8, 1969
Record: Deed Record 300, page 480

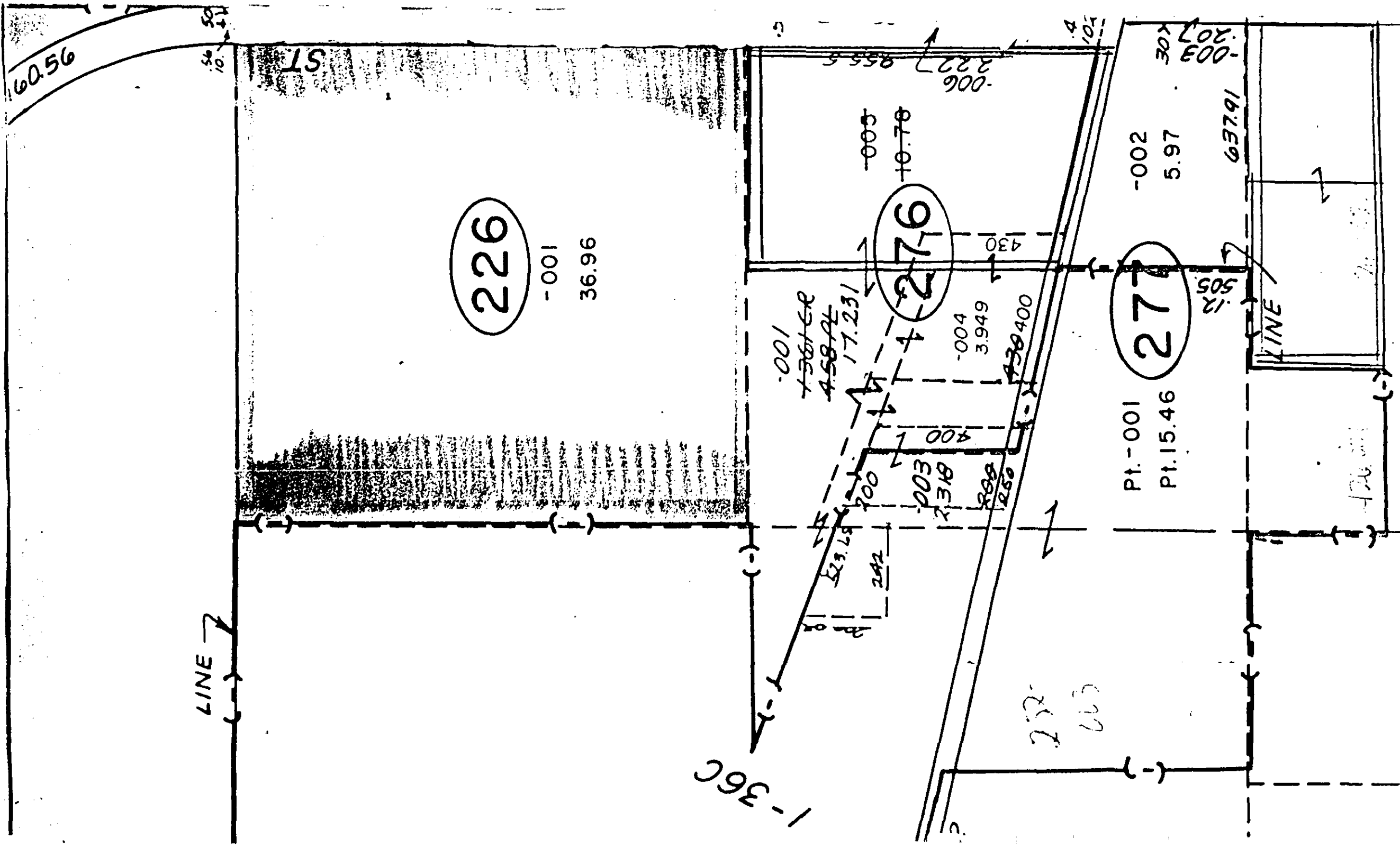
Grantor: Allan J. and Karon A. Ludwig and
David J. Miller
Grantee: Miles Laboratories, Inc.
Dated: December 19, 1969
Recorded: December 22, 1969
Record: Deed Record 300, page 692

Grantor: Allan J. Ludwig and Karon A. Ludwig and
David J. Miller
Grantee: Miles Laboratories, Inc.
Dated: December 19, 1969
Recorded: December 22, 1969
Record: Deed Record 300, page 695

Grantor: Allan J. Ludwig and Karon A. Ludwig and
David J. Miller
Grantee: Miles Laboratories, Inc.
Dated: December 19, 1969
Recorded: December 22, 1969
Record: Deed Record 300, page 696

Grantor: Henry and Mollie Cohen
Grantee: Miles Laboratories, Inc.
Dated: December 31, 1969
Recorded: January 5, 1970
Record: Deed Record 301, page 169

Present Owner: Miles Laboratories, Inc.



WARRANTY DEED

Ira E. Rogers
Thelma Rogers

To

Josephine L. Cooper

Entry for Taxation:

Auditor

FORM APPROVED BY
ELKHART COUNTY INDIANA
BAR ASSOCIATION

LANDS NO. J4103
1482-1483-
1488
Clerk
2-7-68

WARRANTY DEED

This indenture witnesseth that IRA E. ROGERS and THELMA ROGERS, husband and wife,

of Elkhart County in the State of Indiana

Conveys and warrants to JOSEPHINE L. COOPER
County Road 10
Elkhart, Indiana 46514

497935
FILED FOR RECORD

FEB 7 10 11 AM '68

CK PG
WM. S. BICLER
ELKHART COUNTY RECORDER

of Elkhart County in the State of Indiana

for and in consideration of One \$1.00) Dollar and other valuable consideration the receipt whereof is hereby acknowledged, the following Real Estate in Elkhart County in the State of Indiana, to wit:

County

The Northwest quarter (NW-1/4) of the Northeast quarter (NE-1/4) of Section numbered thirty-six (36), Township thirty-eight (38) North of Range four (4) east.

ALSO:

Part of the Southwest quarter (SW-1/4) of the Northeast quarter (NE-1/4) of Section numbered thirty-six (36), Township thirty-eight (38) North, Range four (4) east, more particularly described as follows:

Beginning at the northwest corner of the southwest quarter (SW-1/4) of the northeast quarter (NE-1/4) of said section thirty-six (36); thence running south on the west line of said quarter quarter section twenty (20) rods to a stake; thence east eight (8) rods; thence north parallel with the west line of said quarter quarter section to the north line thereof; thence west eight (8) rods to the place of beginning. Containing one (1) acre of land, more or less.

State of Indiana, Elkhart County, ss:

Before me, the undersigned, a Notary Public in and for said County and State, this 6 day of Feb. 1968 personally appeared:

Ira E. Rogers and Thelma Rogers,
husband and wife,

Dated this 6th Day of February 1968

Ira E. Rogers Seal
Ira E. Rogers

Thelma Rogers Seal
Thelma Rogers

Seal

Seal

Seal

Seal

Seal

And acknowledged the execution of the foregoing deed. In witness whereof, I have hereunto subscribed my name and affixed my official seal. My commission expires February 22 1969.
F. LeRoy Wiltrout Notary Public
F. LeRoy Wiltrout

Prepared by the law office of F. LeRoy Wiltrout, Lawyer, Elkhart, Indiana.
Member of Elkhart County Indiana Bar Association

MAIL TO:

AIR AND WATER POLLUTION

I am writing to ask your advice on a serious pollution problem in our County which concerns many people a great deal.

in my opinion
There is a poorly operated dump just outside the Elkhart City Limits on County Road #10, which runs northwest from the by-pass in Cleveland Township.

There are
There are four very serious problems:

1. The dump borders on a swamp and contaminates the water for ducks and wildlife.
2. The material dumped from a local factory has a very objectionable odor for a 1/2 mile around the area, and farther with the wind.
3. Much burning takes place which contaminates the air with smoke and smell.
4. The road leading into the dump is poorly maintained and much dust is created by the trucks.

My understanding is that the County Commissioners cannot control this.

It would seem to me that the County, State and National Conservation Departments would be concerned. I have also wondered about the National Wildlife Foundation.

There are 302,000 acres in Elkhart County, and this in my opinion is the worst spot in the County.

I am addressing this letter to several Community Leaders in the County asking that they, (1) look at the area, (2) smell it, and (3) suggest a course of action.

Will you be one to join me in helping solve these problems in our home County.

Toni - This is copy of proposed letter to Community leaders - by George Cooper - see date

ROUTING AND TRANSMITTAL SLIP

Date

10/23/89

TO: (Name, office symbol, room number,
building, Agency/Post)

Initials

Date

1. Victor Franklin

2. Bob Lance w/attachment

3.

4.

5.

Action	File	Note and Return
Approval	For Clearance	Per Conversation
As Requested	For Correction	Prepare Reply
Circulate	For Your Information	See Me
Comment	Investigate	Signature
Coordination	Justify	

REMARKS

Response from Desphine Cooper
 Need to clarify statement on
 page 1 - no difference between those
 issued 122 letters & 104 letters.
 Also need to clarify property
 boundaries.

DO NOT use this form as a RECORD of approvals, concurrences, disposals,
clearances, and similar actions.

FROM: (Name, org. symbol, Agency/Post)

Room No.—Bldg.

Susan Swales

Phone No.

5041-102

★ U.S. GPO: 1987-181-246/40023

OPTIONAL FORM 41 (Rev. 7-78)
Prescribed by GSA
FPMR (41 CFR) 101-11.208

CONVERSATION RECORD

TIME

9:35

DATE

6/14/89

TYPE

☐ VISIT

☐ CONFERENCE

☐ TELEPHONE

☒ INCOMING

☐ OUTGOING

Location of Visit/Conference:

NAME OF PERSON(S) CONTACTED OR IN CONTACT WITH YOU

Toni Buchee

ORGANIZATION (Office, dept., bureau, etc.)

TELEPHONE NO:

SUBJECT

Himco - Represents Josephine Cooper

ROUTING

NAME/SYMBOL

INT

Lance

Franklin

SUMMARY

J. Cooper & CLD are the same

adjacent to the dump never involved in dump. Red leachate onto their property.

May file suit against Niles & Himco to do RI/FS

CLD is corporation which holds estate of J Cooper. They want to be listed as CLD Corp.

Bought property as a buffer against the landfill not innocent landowner b/c they knew about leachate.

Response will be late b/c Mrs. Cooper is old lady & difficult to get information from.

ACTION REQUIRED

None

NAME OF PERSON DOCUMENTING CONVERSATION

Susan Soles

SIGNATURE

DATE

6/14/89

ACTION TAKEN

SIGNATURE

TITLE

DATE